

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT CLEVELAND**

	)	
IN RE: SONIC CORP. CUSTOMER DATA	)	
BREACH LITIGATION	)	MDL Case No. 1:17-md-02807-JSG
	)	
THIS DOCUMENT RELATES TO ALL	)	<b>REPORT OF PARTIES' PLANNING</b>
ACTIONS	)	<b>MEETING UNDER FED. R. CIV. P.</b>
	)	<b>26(f) AND LR 16.3(b) and 23.1</b>
	)	

Pursuant to the Court's December 13, 2017 Order (Dkt. 2) ("Order"), Fed. R. Civ. P. 26(f) and LR 16.3(b) and 23.1, a conference call was held on Thursday, December 21, 2017 between Plaintiffs' counsel, on the one hand: (1) Interim Lead Counsel for Plaintiffs, William Federman, along with two colleagues from his firm, Federman & Sherwood, Joshua Wells and Nicole Johnson, (2) Brian Flick of Dann-Law, Interim Liaison Counsel for Plaintiffs, (3) Thomas A Zimmerman Jr. of Zimmerman Law Offices, P.C., a member of the Interim Plaintiffs' Steering Committee (PSC), and (4) Melissa Emert of Stull, Stull & Brody, a member of PSC; and on the other hand, Defendants' counsel, Craig Cardon and Kari M. Rollins of Sheppard Mullin Richter & Hampton LLP. The following reflects the Parties' joint report of that meeting as required by the Order.

**I. List of Pending Motions**

As indicated in the Parties' Preliminary Report submitted to the Court on January 4, 2018, prior to the centralization and transfer of this consolidated litigation, Sonic Corp. filed motions to dismiss in the following cases:

*Gilmore v. Sonic Corp.*, W.D. Okla. Case No. 5:17-cv-01032-M (filed 12/04/17)

*Ramirez v. Sonic Corp.*, W.D. Okla. Case No. 5:17-01044-M (filed 12/04/17)

*Lewin v. Sonic Corp.*, W.D. Okla. Case No. 5:17-01047-M (filed 12/04/17)

## **II. Initial Disclosures**

Pursuant to the Order, the Parties will exchange the initial, pre-discovery disclosures required by Rule 26(a)(1) on or before January 30, 2018.

## **III. Track**

The Parties are satisfied with the Mass Tort track recommended by the Court in its Order.

## **IV. Alternative Dispute Resolution**

The Parties agree that this litigation is likely suitable for some form of alternative dispute resolution (“ADR”), but have not yet determined which ADR mechanism is most suitable, nor have they yet determined at what stage in the proceedings ADR might be most valuable or effective.

## **V. Amended Pleadings/Adding Parties**

Please see the Recommended Case Management Plan in Section 7 below.

## **VI. Referral to Magistrate Judge**

Given the decision of the Judicial Panel on Multi-District Litigation to centralize and transfer this litigation to this Court, and the Honorable James S. Gwin, in particular for adjudication and management of coordinated and consolidated pre-trial proceedings, the Parties do not consent to the jurisdiction of the United States Magistrate Judge pursuant to 29 U.S.C. § 636(c).

**VII. Recommended Case Management Plan**

The Parties propose the Court enter an Order setting the following schedule where agreed; where the Parties have not reached agreement regarding the proposed case management plan, the Parties have so indicated below:

<u><b>EVENT</b></u>	<u><b>DATE</b></u>
Deadline to submit agreed protective order	January 4, 2018
Parties to exchange Rule 26 initial disclosures	January 30, 2018
Start of discovery	<p><b>Plaintiffs request</b> that fact discovery commence on January 30, 2018 or prior if granted leave by Court</p> <p><b>Defendant requests</b> that discovery be bifurcated between class certification- and merits-related discovery, with discovery relating only to facts necessary for class certification to commence on January 30, 2018.</p>
Plaintiffs to file consolidated class action complaint	February 12, 2018
Defendants to file answer or motion to dismiss	March 14, 2018
Plaintiffs to file response in opposition to Defendants' motion to dismiss (if applicable)	April 13, 2018
Defendant to file reply to response in opposition to Defendants' motion to dismiss (if applicable)	April 27, 2018
Hearing on motion(s) to dismiss	May 25, 2018 at 1:30 pm
Deadline to file second amended consolidated complaint (if necessary and leave is granted by court)	28 days after ruling on motion to dismiss
Deadline to file second round motions to dismiss, if any	21 days after filing of second amended consolidated complaint

<u><b>EVENT</b></u>	<u><b>DATE</b></u>
Deadline to file opposition to second round motions to dismiss, if any	21 days after filing of second round motion to dismiss
Deadline to file reply to opposition to second round motions to dismiss, if any	7 days after filing of opposition to second round motion to dismiss
Hearing on second round motion to dismiss	20 days after close of second round of motion to dismiss briefing
Close of discovery	<p><b>Plaintiffs request</b> that fact discovery close on December 28, 2018</p> <p><b>Defendant requests</b> that discovery be bifurcated between class certification- and merits-related discovery, with discovery relating only to facts necessary for class certification to close on or before October 1, 2018.</p>
Deadline for Plaintiffs to identify and submit reports of experts for class certification	October 31, 2018
Deadline for Defendants to identify and submit reports of experts for class certification	November 30, 2018
Last day to depose experts	December 31, 2018
Last day to amend pleadings / add parties	October 31, 2018
Deadline to file motion for class certification and opening <i>Daubert</i> motions	January 18, 2019
Deadline to file opposition to motion for class certification and opening <i>Daubert</i> motions	February 22, 2019
Deadline to file reply to opposition to motion for class certification and opening <i>Daubert</i> motions	March 15, 2019
Hearing on motion for class certification and <i>Daubert</i> motions	April 18, 2019

Dated: January 4, 2018

Respectfully submitted,

/s/ William B. Federman

William B. Federman  
Carin L. Marcussen  
Joshua D. Wells  
FEDERMAN & SHERWOOD  
10205 N. Pennsylvania Ave.  
Oklahoma City, OK 73120  
Telephone: 405.235.1560  
Fax: 405.239.2112  
[wbf@federmanlaw.com](mailto:wbf@federmanlaw.com)  
[clm@federmanlaw.com](mailto:clm@federmanlaw.com)  
[jd@federmanlaw.com](mailto:jd@federmanlaw.com)

*Interim Lead Counsel for Plaintiffs*

Brian Flick  
DANN LAW  
810 Sycamore St., Third Floor  
Cincinnati, Ohio 45202  
Telephone: (216) 373-0539  
Fax: (216) 373-0536  
[bflick@dannlaw.com](mailto:bflick@dannlaw.com)

*Interim Liaison Counsel for Plaintiffs*

Thomas A. Zimmerman, Jr.  
ZIMMERMAN LAW OFFICES, P.C.  
77 W. Washington Street, Suite 1220  
Chicago, Illinois 60602  
Telephone: 312.440.0020  
Fax: 312.440.4180  
[tom@attorneyzim.com](mailto:tom@attorneyzim.com)

Melissa Emert  
STULL, STULL, & BRODY  
6 East 45<sup>th</sup> Street  
New York, NY 10017  
Phone: 954.341.5561  
Fax: 954.341.5531  
[memert@ssbny.com](mailto:memert@ssbny.com)

/s/ Kari M. Rollins

Kari M. Rollins (*admitted pro hac vice*)  
SHEPPARD MULLIN RICHTER &  
HAMPTON LLP  
30 Rockefeller Plaza  
New York, NY 10112  
Telephone: 212.634.3077  
Fax: 917.438.6173  
[krollins@sheppardmullin.com](mailto:krollins@sheppardmullin.com)

Craig Cardon (*admitted pro hac vice*)  
SHEPPARD MULLIN RICHTER &  
HAMPTON LLP  
1901 Avenue of the Stars, Suite 1600  
Los Angeles, CA 90067  
Telephone: 310.228.3749  
Fax: 310.228.3701  
[ccardon@sheppardmullin.com](mailto:ccardon@sheppardmullin.com)

Liisa M. Thomas (*pro hac vice pending*)  
David M. Poell (*admitted pro hac vice*)  
SHEPPARD MULLIN RICHTER &  
HAMPTON LLP  
70 West Madison Street, 48<sup>th</sup> Floor  
Chicago, IL 60602  
Telephone: 312.499.6300  
Fax: 312.499.6301  
[lthomas@sheppardmullin.com](mailto:lthomas@sheppardmullin.com)  
[dpoell@sheppardmullin.com](mailto:dpoell@sheppardmullin.com)

David A. Riepenhoff (0075089)  
Melanie J. Williamson (0079528)  
FISHEL HASS KIM ALBRECHT  
DOWNEY LLP  
7775 Walton Parkway, Suite 200  
New Albany, OH 43054  
Telephone: (614) 221-1216  
Fax: (614) 221-8769  
[dripenhoff@fishelhass.com](mailto:dripenhoff@fishelhass.com)  
[mwilliamson@fishelhass.com](mailto:mwilliamson@fishelhass.com)

*Counsel for Sonic Corp.*

David H. Krieger, Esq.  
HAINES & KRIEGER, LLC  
8985 S. Eastern Avenue, Suite 350  
Henderson, NV 89123  
Phone: 702.880.5554  
Fax: 702.385-5518

Michael R. Fuller  
OLSEN DAINES  
3150 Bancorp Tower  
111 Southwest 5<sup>th</sup> Avenue  
Portland, OR 97204  
Phone: 503.201.4570  
[michael@underdoglawyer.com](mailto:michael@underdoglawyer.com)

*Interim Plaintiffs' Steering Committee*